



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

September 29, 1992

Honorable Betty Denton
Chair
Committee on Judiciary
Texas House of Representatives
P. O. Box 2910
Austin, Texas 78768-2910

Letter Opinion No. 92-57

Re: Minimum age at which an individual
may be tattooed in this state (ID# 16994)

Dear Representative Denton:

You have requested our opinion regarding the minimum age at which an individual may be tattooed in this state. Subchapter G, chapter 161 of the Health and Safety Code, which defines "tattooing" as "the practice of marking the skin with indelible patterns or pictures by making punctures and inserting pigments," Health & Safety Code § 161.071, provides that

[a] person commits an offense if the person tattoos a person
who is younger than 21 years old.

Health & Safety Code § 161.072(a).

Section 129.002 of the Civil Practice and Remedies Code declares:

A law, rule, or ordinance enacted or adopted before August
27, 1973, that extends a right, privilege, or obligation to an
individual on the basis of a minimum age of 19, 20, or 21 years
shall be interpreted as prescribing a minimum age of 18 years.

This statute, enacted in 1973, "effects the removal of disabilities of minority of those 18 years of age or older." Attorney General Opinion H-82 (1973) at 5. If section 161.072, of the Health and Safety Code, or a predecessor statute, was in effect on August 27, 1973, the minimum age of consent for tattooing is 18 years.

The language in section 161.072 is virtually identical to the language adopted in 1965 as House Bill 133, Acts 1965, 59th Leg., ch. 409, at 847.¹ In 1989, the statute was incorporated into the new Health and Safety Code, enacted as House Bill 2136, Acts 1989, 71st Leg., ch. 678, at 2230 *et seq.* The bill enacting the code provides:

This is intended as a recodification only, and no substantive change in the law is intended by this Act.

¹The full text of House Bill 133 reads as follows:

Section 1. It shall be unlawful to tattoo any person under the age of twenty-one (21) years.

Sec. 2. "Tattooing" means the practice of marking the skin with indelible patterns or pictures by making punctures and inserting pigments.

Sec. 3. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than ten dollars (\$10) nor more than two hundred dollars (\$200), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

Sec. 4. The importance of preventing young people from acquiring tattoos which may be disfiguring and impossible to remove without scarring creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and this Rule is hereby suspended.

By way of contrast, subchapter G, chapter 161, Health and Safety Code, provides:

§ 161.071. Definition

In this subchapter, "tattooing" means the practice of marking the skin with indelible patterns or pictures by making punctures and inserting pigments.

§ 161.072. Criminal Penalty

(a) A person commits an offense if the person tattoos a person who is younger than 21 years old.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$10 or more than \$200, confinement in the county jail for not more than six months, or both.

Id. § 14, at 3165. Thus, the *law* governing the minimum age for tattooing had been enacted prior to August 27, 1973, and as a result, it must be construed, under the terms of section 129.002 of the Civil Practice and Remedies Code, "as prescribing a minimum age of 18 years." Accordingly, in answer to your question, Texas law provides that tattooing may be performed on any person who is at least 18 years of age.

S U M M A R Y

Under the provisions of chapter 161 of the Health and Safety Code, as modified by section 129.002 of the Civil Practice and Remedies Code, the minimum age for obtaining a tattoo in Texas is 18 years.

Yours very truly,

A handwritten signature in cursive script that reads "Rick Gilpin".

Rick Gilpin
Deputy Chief
Opinion Committee